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Illinois Bell Telephone Company

**Application for Review of Alternative
Regulation Plan.**

Illinois Bell Telephone Company

**Petition to Rebalance Illinois Bell Telephone
Company's Carrier Access and Network
Access Line Rates.**

**Citizens Utility Board and
The People of the State of Illinois**

-vs-

Illinois Bell Telephone Company

**Verified Complaint for a Reduction in Illinois
Bell Telephone Company's Rates and Other
Relief.**

CHIEF CLERK'S OFFICE
98-0252

98-0335

(cons.)

00-0764

AT&T'S EXCEPTIONS TO HEARING EXAMINERS' PROPOSED ORDER

AT&T Communications of Illinois, Inc. ("AT&T") hereby submits its exceptions to the Hearing Examiners' Proposed Order ("HEPO") issued in the above docket on May 22, 2001. Due to the pagination problems being experienced by the parties, AT&T will attempt to simplify its exceptions by raising them in the order in which they appear in the HEPO.

COMPETITION

Exception No. 1: The first sentence in the HEPO's Commission Analysis and Conclusion Section addressing Section III. 8 Competition (at approximately page 57 of the HEPO) states that "We see no casual connection . . ." AT&T suggests that "casual" should be changed to "causal."

RATE REBALANCING

Exception No. 2: The second to the last sentence in the Commission Analysis and Conclusion section of the Rate Rebalancing section of the HEPO – Section IV of the HEPO – contains two typographical errors that need to be corrected. The phrase “AI has failed to meet is burden” should be modified to state that “AI has failed to meet its burden” Moreover, the acronym “LRSIC” in that same sentence needs to be corrected to state that AI has failed to meet its burden of convincing the Commission that its costs for network access lines are either above “current LRSICs” or above “current network access line rates.” To state that AI has failed to meet its burden in convincing the Commission that its costs for network access lines are above long run service incremental cost does not effectuate the Commission’s intent in denying Ameritech’s rate rebalancing proposal by failing to meet its burden -- using the LFAM model -- of showing that its costs of providing network access line service exceed its current network access line rates or existing LRSICs for local service.

EXOGENOUS FACTOR TREATMENT – THE “Z” FACTOR

Exception No. 3: AT&T’s Exception No. 3 concerning the “Z” factor is not really an exception, but a clarification. The Z factor is addressed in the HEPO at Section V.B.3. AT&T agrees with the HEPO’s conclusion that Ameritech is not automatically entitled to exogenous factor treatment for all Commission-mandated rate reductions. AT&T’s Exception No. 3 seeks to clarify the seemingly inconsistent language in the HEPO regarding how Ameritech will seek exogenous factor treatment. In the last sentence of

the first paragraph of the Commission Analysis and Conclusion section addressing exogenous factor treatment (at approximately page 95), the HEPO adopts Staff's proposal that "requires AI to make a exogenous treatment filing within 30 days of the exogenous event which it deems triggers the need for a rate change, together with the specific rates it wishes to change." Yet in the first sentence of the third paragraph of that same Commission Analysis and Conclusion section, the HEPO reaches the conclusion that "In all other respects the Z factor shall remain as originally ordered, *including the actual application of a Commission approved exogenous event on an annual basis.*" (emphasis supplied).

Thus, while the former reference appears to envision potentially numerous exogenous factor filings during the course of the year, including such filings in between Ameritech's annual alt reg filings, the latter reference appears to maintain the status quo of requiring Ameritech to seek exogenous factor treatment in its annual alt reg filing of reductions that have occurred since the prior annual filing. AT&T requests that the HEPO be clarified on this point. AT&T recommends that the current method for seeking exogenous factor treatment – that is, on an annual basis in the annual alt reg filing – be maintained. Indeed, dealing with any and all triggering events that may have arisen during the course of the year at once is much more efficient than dealing with each event that may arise during the year. In fact, adopting the new 30 day proposal could result in one or more exogenous event filings pending at the same time the annual filing is to be made, causing even further uncertainty and confusion. As such, AT&T recommends that the Commission Analysis and Conclusion section be modified as follows:

The Commission concludes that the Z factor continues to be a necessary component of the price cap formula. The Commission had found in the

alternative regulation order that an exogenous change factor is necessary because a price cap formula is an over simplification of a complex public policy. Order at 61. The Commission recognized then, as it does now, that the formula, without a Z factor cannot always reflect changing circumstances and balance competing interests fairly. However, on a going forward basis, clarification of the Z factor is appropriate. The Commission is persuaded by Staff's proposal that requires AI to make a ~~exogenous treatment filing within 30 days of the exogenous event which it deems triggers the need for a rate change, together with the specific rates it wishes to change.~~ Further, We hereby clarify that an exogenous event may include

FOUR BASKET STRUCTURE

Exception No. 4: AT&T wholeheartedly agrees with the HEPO's conclusion that the current four basket structure for noncompetitive services should be maintained as a matter of good pro-competitive policy. Accordingly, AT&T takes exception to just one of the HEPO's conclusions regarding the basket structure on a going forward basis. This Commission Analysis and Conclusion section appears after Section V.E.c and at approximately page 110 of the HEPO. Specifically, AT&T takes exception to the HEPO's conclusion that wholesale services should be placed in the carrier basket. Rather than all wholesale services automatically being placed in the carrier basket, AT&T recommends that wholesale services be placed in the same basket as the corresponding retail service or, if the retail service has been declared competitive and has been removed from the alternative regulation plan, in the same basket the corresponding retail service would be placed if it were still classified as noncompetitive.

The reasons for doing this are clear. Placing wholesale services in the same basket as the corresponding retail service maintains the equitable treatment of all customer classes. For example, assume Service ABC is a business service included in the

Business Basket. The corresponding wholesale service will also ultimately be provided to business end users. By including the wholesale service in the Business Basket, Ameritech will be able to distribute the Business Basket price reductions equitably, without detracting from reductions to carriers with these reductions. If, however, all wholesale services -- including the wholesale offering of Service ABC -- are included in the Carrier Basket, those ultimate business customers would still be afforded price reductions pursuant to wholesale discounted pricing. If these price reductions are implemented in the Carrier Basket, however, carriers may very well receive no price reductions via access or interconnection services, and thus could suffer in a discriminatory manner relative to other customer classes. That is, Ameritech would not reduce the price of some of the other services in the Carrier Basket (e.g. carrier access, UNEs, etc.) because it was able to use reductions to wholesale prices to satisfy its price index formula requirements. Thus, it is more equitable to include wholesale services in the same basket as the corresponding retail service.¹

In addition, it is wholesale *services*, rather than wholesale *rates*, that are placed in a basket. Accordingly, AT&T recommends that the second and third sentences of the fourth full paragraph in the Commission Analysis and Conclusion section be modified as follows:

UNEs shall be made a part of the Carrier basket. Wholesale ~~rates~~ services shall ~~remain apart of the Carrier basket~~ be assigned to the same basket as the corresponding retail service. If the corresponding retail service has been declared competitive, the wholesale service shall be assigned to the same basket to which the corresponding retail service would be assigned

¹ As AT&T noted in its briefs in this matter, while Ameritech is required to provide wholesale services at rates in accordance with the formula set forth in the Commission's Wholesale Order, that formula determines the minimum discount and nothing precludes Ameritech from offering deeper discounts to CLECs purchasing wholesale services in the course of allocating reductions resulting from the price cap mechanism.

had it remained within the alternative regulation plan. Carrier Access Services shall remain in the Carrier basket.

AT&T also recommends that the final sentence in this section be modified to pluralize the word “reduction” such that the sentence would read: “We agree with AT&T in that to the extent AI experiences cost reductions, wholesale services also benefit from those reductions, by operation of the price cap mechanism.”

REINITIALIZATION OF API & PCI

Exception No. 5: Regarding the reinitialization of the API and PCI, AT&T takes exception to the rationale contained in the Commission Analysis and Conclusion section (on or about page 112 in Section V.E.d). That sentence concludes that reinitialization of the baskets would somehow eliminate Ameritech’s incentive to operate efficiently in the future. To the contrary, however, permitting Ameritech to keep the earnings it has accumulated during the life of the plan should provide Ameritech with more than enough incentive to operate efficiently since the more efficiently it operates, the greater the amount of earnings it gets to keep. If and when the alternative regulation plan is extended as a result of this proceeding, it is entirely appropriate for the Commission to “start over” in determining on a going forward basis how much Ameritech gets to keep and how much gets passed on to its customers. There is no real danger that this will somehow encourage Ameritech to operate inefficiently. Thus, the last sentence of the HEPO’s conclusion is simply not true, and should be stricken in its entirety.

Accordingly, the Commission Analysis and Conclusion section pertaining to reinitialization of the PCI and API should be modified as follows:

The Commission concludes that the API/PCIs in the existing Plan should not be reinitialized and reset to 100 on a going forward basis as recommended by both Staff and GCI/City. ~~Reinitialization will effectively eliminate the headroom which has been achieved by AI during the initial term of the Plan. Reinitialization of the baskets would serve as a disincentive to AI to operate efficiently in the future.~~

RECLASSIFICATION PENALTIES

Exception No. 6: As to the Commission Analysis and Conclusion section regarding penalties for premature reclassification of services (at approximately page 126, following Section V.E.I), AT&T's Exception No. 6 is in the nature of a clarification to the extent AT&T urges the Commission to incorporate the new telecommunications legislation recently enacted by the Illinois General Assembly, House Bill 2900, and in the nature of an exception to the extent the HEPO concludes and/or implies that there is anything improper about "causing AI to be overcautious when reclassifying services." To the contrary, given the fact that Ameritech voluntarily reclassified the residence services at issue in ICC Docket No.98-0860 from competitive to noncompetitive, given the overwhelming amount of resources expended by all parties, including the Staff and the Hearing Examiner, in ICC Docket No. 98-0860 and given the HEPO's conclusions in ICC Docket No. 98-0860, Ameritech should be persuaded, via improper reclassification penalties, to exercise an abundance of caution and analysis prior to reclassifying any of its services from noncompetitive to competitive.

Moreover, the HEPO's conclusion that it does not have the statutory authority to impose penalties upon Ameritech as part of the plan of alternative regulation is mooted to the extent House Bill 2900 is signed into law by the Governor later this month. House Bill 2900 gives the Commission express statutory authority to impose

penalties, including penalties for improper reclassification, and also enumerates the minimum factors the Commission must consider in determining whether a service has been properly classified – a list that will likely be supplemented and clarified in ICC Docket No. 98-0861.

In light of the above, AT&T recommends that the Commission Analysis and Conclusion section regarding reclassification penalties be stricken and replaced with the following:

The Commission agrees with Staff and City/GCI that an improper reclassification penalty is appropriate and warranted. We also find that Ameritech's argument that we lack the statutory authority to impose such penalties has been mooted by House Bill 2900, the recent amendment to the Illinois Public Utilities Act. Thus, we hereby conclude that Ameritech shall, as a condition of continued alternative regulation, be required to pay the maximum penalty allowable under House Bill 2900 in the event it prematurely or improperly reclassifies a service as competitive.

We agree with Staff and City/CUB that imposing a penalty for the premature or otherwise improper reclassification of noncompetitive services certainly serves as an appropriate and warranted deterrent to the reclassification of non-competitive services. A thorough review of the City/CUB proposal leads us to conclude that such a deterrent will appropriately cause AI to be overcautious when reclassifying services.

Finally, it is our expectation that House Bill 2900 and our Order in ICC Docket No. 98-0861 will provide substantial clarification to the parties as to our interpretation of Section 13-502(b) and the evidence required to support a competitive classification.

WHOLESALE SERVICE QUALITY

Exception No. 7: Finally, AT&T takes exception to the HEPO's conclusion regarding wholesale service quality – the Commission Analysis and Conclusion section immediately preceding the Finding and Ordering Paragraphs. In sum, the HEPO concludes that wholesale quality issues can be addressed in other proceedings and the

record here is simply inadequate to address the issues of wholesale quality. There is no question that wholesale quality issues can be – and are being – addressed in other dockets. While ICC Docket No. 00-0120 is addressing performance benchmarks for wholesale services, nothing precludes the Commission from also addressing wholesale quality in this docket to, at a minimum, include in Ameritech's alternative regulation plan *the very same wholesale performance measures the Commission has already determined are appropriate based on the extensive record in ICC Docket No. 98-0555*. All AT&T and Staff request is that the wholesale performance measures already approved by the Commission in the Merger Order be extended throughout the life of Ameritech's alternative regulation plan. The HEPO's perceived concern that the record in this case cannot support findings and conclusions regarding wholesale service quality is of no real consequence since the specific performance measures AT&T and Staff ask be incorporated into the Plan have already been approved by the Commission based on what no party would dispute to be extensive record evidence.

AT&T also notes that its position on wholesale service quality was inadvertently omitted from the HEPO. AT&T therefore recommends that the following position, which it included in its draft proposed HEPO, be inserted into the HEPO in this matter:

AT&T's Position

AT&T agrees with Staff's Wholesale Performance Measure Recommendation. See Staff's Initial Br. at 67-68. To ensure the quality of wholesale services and to ensure compliance with Section 13-506.1 of the Illinois Public Utilities Act, Staff's recommendation that all performance measurements and the Remedy Plan adopted pursuant to Condition 30 of the Merger conditions should continue, without interruption, throughout the life of the alternative regulation plan. AT&T believes that this is essential if service quality is to be maintained. AT&T Reply Br. at 17.

Consistent with the foregoing, AT&T also recommends that the Commission Analysis and Conclusion section regarding wholesale service quality be stricken in its entirety and replaced with the following:

Commission Analysis And Conclusion

To ensure the quality of Ameritech's wholesale services and to ensure compliance with Section 13-506.1 of the Illinois Public Utilities Act, we hereby adopt Staff's recommendation that all performance measurements and the Remedy Plan adopted pursuant to Condition 30 of our Merger Order in ICC Docket No. 98-0555 shall continue, without interruption, throughout the life of the alternative regulation plan.

WHEREFORE, AT&T respectfully requests that the Hearing Examiners' Proposed Order issued in this matter on May 22, 2001 be revised consistent with the foregoing.

Respectfully submitted,

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Dated: June 13, 2001

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

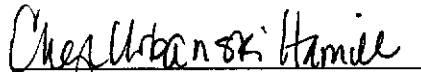
Illinois Bell Telephone Company	}	98-0252
Application for review of alternative regulation plan.		
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Petition to rebalance Illinois Bell Telephone Company's Carrier Access and Network Access Line Rates.		
		(cons.)
Citizens Utility Board and	}	
The People of the State of Illinois		
-vs-		
Illinois Bell Telephone Company	}	00-0764
Verified Complaint for a Reduction in Illinois Bell Telephone Company's Rates and Other Relief.		

NOTICE OF FILING

PLEASE TAKE NOTICE that we have this 13th day of June, 2001, filed with the Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62701, AT&T's Exceptions to Hearing Examiners' Proposed Order in the above-captioned proceeding.

PROOF OF SERVICE

I, Cheryl Urbanski Hamill, an attorney, hereby certify that copies of AT&T's Exceptions to Hearing Examiners' Proposed Order were served on all parties on the service list on this 13th day of June, 2001, via E-Mail and U.S. Mail.


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